

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ACALANES UNION HIGH SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014041192

ORDER FOLLOWING PREHEARING
CONFERENCE, GRANTING
REQUEST FOR CONTINUANCE IN
PART AND SETTING MEDIATION,
PREHEARING CONFERENCE AND
HEARING

On May 12, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Rebecca Freie, Office of Administrative Hearings (OAH). Jennifer Fain, Attorney at Law, appeared on behalf of Acalanes Union High School District (District). Although Student has retained Roberta Savage, Attorney at Law, as counsel, Ms. Savage did not appear at the PHC.¹ The PHC was recorded.

On May 9, 2014, Ms. Savage filed a notice of representation, and it was accompanied by a joint request for continuance signed by both Ms. Savage and Ms. Fain. This is the initial request for a continuance filed in this matter.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a

¹ The PHC was set to begin at 10:00 a.m., and the undersigned ALJ telephoned Ms. Savage's office at that time, but the call was answered by voicemail. A message was left telling Ms. Savage that the phone call for the telephonic PHC would be initiated again at 10:30 a.m. Again, the call was answered by voicemail, and a message was left advising Ms. Savage that the PHC would proceed without her, the continuance would be granted, and she was given the dates to which the matter would be continued.

party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted, in part. The parties' requested mediation date will be set, but the hearing and PHC will not be set in September 2014, as requested by the parties. Ms. Fain explained at the PHC that the District wanted dates in September because the school year will just be beginning in August, and it is inconvenient for the District to have a hearing at that time. However, a school district's calendar for the school year is not good cause for a continuance. All dates are vacated. This matter will be set as follows:

Mediation:	June 11, 2014, at 9:30 a.m.
Prehearing Conference:	August 15, 2014, at 10:00 a.m.
Due Process Hearing:	August 25-28, 2014, beginning at 1:30 p.m. on the first day of hearing, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: May 12, 2014

/s/

REBECCA FREIE

Administrative Law Judge

Office of Administrative Hearings